

Applicants respectively traverse this statement and objection, and request i) withdrawal of the Office Action of December 29, 2009 and ii) entry of the preliminary amendment (treating claims 4-13 on the merits) and iii) re-issuance of the Office Action based on the following considerations.

It is stated in the statement in the Office Action (see above) that “[c]laims 1 and 2 as set forth in the amendment were not received in any other amendment in the application.” However, the Article 19 Amendment was filed with the present national stage application on August 30, 2006 (see attachment).

In the Article 19 Amendment, claims 1 and 2 were amended, as compared with claims 1 and 2 of the original claims. (It is noted that the Article 19 Amendment as filed is in a proper format because it is not necessary for the amendment under Article 19 of PCT to have a changed portion marked up with underline or strikethrough.)

Further, the Preliminary Amendment was filed on August 30, 2006. Claims 1 and 2 were not amended in the Preliminary Amendment. In other words, claims 1 and 2 in the Preliminary Amendment are identical to claims 1 and 2 in the Article 19 Amendment. Therefore, the identifier “(Previously amended)” (without underlining and strikethrough) of claims 1 and 3 in the Preliminary Amendment is proper. Thus, the Preliminary Amendment should have been entered on the merits.

In the Preliminary Amendment, claims 4-9 and 13 were appropriately amended to remove the improper multiple dependencies as pointed out in the Office Action.

Therefore, Applicants respectfully submit that claims 4-13 should be treated on the merits.

For the Examiner's convenience, each of the copies of the Article 19 Amendment, LETTER (to file the Article 19 Amendment), and the Preliminary Amendment are attached hereto. (The copies are obtained from PAIR of U.S.P.T.O (the Office). In PAIR, it appears that the Article 19 Amendment is recorded as Document Code "P.409.IN" (last page of the documents) and Document Description "IPEA/409-Int'l Prelim Report on Patentability," and "LETTER" of August 30, 2006 was recorded as Document Code "TRNA" and Document Description "Transmittal of New Application" (see attachment). It is respectfully submitted that the Office is responsible for recording the documents as Applicants filed. Thus, the Office should have appropriately recorded the Article 19 Amendment, *etc.*, so that the Examiner could have examined this application more efficiently.)

Based on the above considerations, i) withdrawal of the Office Action of December 29, 2009 and ii) entry of the preliminary amendment (treating claims 4-13 on the merits) and iii) re-issuance of the Office Action be respectfully requested.

Also, in accordance with the provisions of **M.P.E.P. § 710.06** (*which is partially reproduced below for the Patent Office's convenience*), the U.S.P.T.O. is respectfully requested to issue a new Office Action and to restart the period for reply.

The instant request is presented within **one-month** of the issuance date (mail date) of the outstanding Office Action of December 29, 2009.

#### **710.06 Situations When Reply Period Is Reset or Restarted**

Where the citation of a reference is incorrect or an Office action contains some other error that affects applicant's ability to reply to the Office action and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for reply to run from the date the error is corrected, if requested to do so by applicant. . . .

Where for any reason it becomes necessary to remail any action ( MPEP § 707.13), the action should be correspondingly redated, as it is the remailing date that establishes the beginning of the period for reply....

A supplementary action after a rejection explaining the references more explicitly or giving the reasons more fully, even though no further references are cited, establishes a new date from which the statutory period runs....

(Emphasis Added)

Should the U.S.P.T.O. contend that the above provisions of M.P.E.P. § 710.06 do not apply in the matter of the outstanding uncorrected office action, the U.S.P.T.O. is requested to immediately contact Toyohiko Konno (Reg. No. 32,881) at the offices of the undersigned so that an interview can be held at the Examiner's earliest convenience.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

Dated: January 26, 2010

Respectfully submitted,

By 

Gerald M. Murphy, Jr.

Registration No.: 28977

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Attachments: Print out of Image file wrapper from PAIR (1 page)  
LETTER (to file the Article 19 Amendment) (1 page)  
Article 19 Amendment (1 page) and  
Preliminary Amendment filed on August 30, 2006 (5 pages)

10/591,170 Cup package made of a fibre-based material

01-25-2010::20:03:10

**This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click Start Download.**

**Available Documents**

Mail Room Date	Document Code	Document Description	Page Count
12-29-2009	CTNF	<b>Non-Final Rejection</b>	<b>4</b>
12-29-2009	892	List of references cited by examiner	1
12-29-2009	1449	List of References cited by applicant and considered by examiner	1
12-29-2009	SRFW	Search information including classification, databases and other search related notes	1
01-23-2009	APP.FILE.REC	Filing Receipt	3
01-23-2009	M903	Notice of DO/EO Acceptance Mailed	2
08-09-2007	NTC.PUB	Notice of Publication	1
05-03-2007	NTC.PUB.DATE	Notice of New or Revised Publication Date	1
04-28-2007	IMIS	Miscellaneous Internal Document	1
04-28-2007	WFEE	Fee Worksheet (PTO-875)	1
04-28-2007	WCLM	Claims Worksheet (PTO-2022)	1
08-30-2006	TRNA	Transmittal of New Application	4
08-30-2006	136A	Authorization for Extension of Time all replies	4
08-30-2006	SPEC	Specification	6
08-30-2006	CLM	Claims	2
08-30-2006	ABST	Abstract	1
08-30-2006	DRW	Drawings-only black and white line drawings	3
08-30-2006	OATH	Oath or Declaration filed	2
08-30-2006	WFEE	Fee Worksheet (PTO-875)	1
08-30-2006	A.PE	Preliminary Amendment	1
08-30-2006	CLM	Claims	3
08-30-2006	REM	Applicant Arguments/Remarks Made in an Amendment	1
08-30-2006	IDS	Information Disclosure Statement (IDS) Filed (SB/08)	3
08-30-2006	FOR	Foreign Reference	25
08-30-2006	FOR	Foreign Reference	4
08-30-2006	FOR	Foreign Reference	3
08-30-2006	FOR	Foreign Reference	13
08-30-2006	FOR	Foreign Reference	12
08-30-2006	NPL	NPL Documents	1
08-30-2006	371P	Documents submitted with 371 Applications	1
08-30-2006	371P	Documents submitted with 371 Applications	1
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08-30-2006	371P	Documents submitted with 371 Applications	4
08-30-2006	371P	Documents submitted with 371 Applications	5
08-30-2006	ABST	Abstract	1
08-30-2006	SPEC	Specification	6
08-30-2006	CLM	Claims	2
08-30-2006	DRW	Drawings-only black and white line drawings	3
08-30-2006	FRPR	Certified Copy of Foreign Priority Application	14
08-30-2006	P.409.IN	IPEA/409 - Int'l Prelim Report on Patentability	5
08-30-2006	WFEE	Fee Worksheet (PTO-875)	1
08-30-2006	WFEE	Fee Worksheet (PTO-875)	1

10/591170

IAP5 Rec'd PCT/PTO 30 AUG 2006  
Docket No.: 0696-02561-031  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Jari RÄSÄNEN et al.

Application No.: NEW

Confirmation No.: N/A

Filed: August 30, 2006

Art Unit: N/A

For: CUP PACKAGE MADE OF A FIBRE-BASED  
MATERIAL

Examiner: Not Yet Assigned

LETTER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

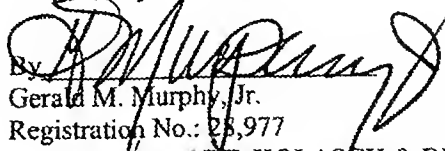
Sir:

The PTO is requested to use the amended sheets/claims attached hereto (which correspond to Article 19 amendments or to claims attached to the International Preliminary Examination Report (Article 34)) during prosecution of the above-identified national phase PCT application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §1.16 or 1.14; particularly, extension of time fees.

Dated: August 30, 2006

Respectfully submitted,

By:   
Gerald M. Murphy, Jr.  
Registration No.: 28,977

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Attachment(s)

**Claims**

1. A cup package made of a fibre-based material, comprising a cup (1) containing a packaged product (2) and a lid (6) closing the mouth of the cup, both the cup and the lid being **characterised** in that the cup (1) comprises a mantle (3) bent downward at the mouth (4) of the cup to form a collar (5) diverging from the mantle, and in that the lid (6) has a downwardly oriented rim (8), at which the lid is fixed to the collar by heat sealing.
2. A package as defined in claim 1, **characterised** in that the mantle (3) of the cup (1) is enlarged conically upwardly.
3. A package as defined in claim 1 or 2, **characterised** in that the cup collar (5) and the lid rim (8) are enlarged conically downwardly.
4. A package as defined in any of the preceding claims, **characterised** in that the cup (1) is made from polymer-coated board (15) with at least the inner surface of the cup mantle (3) and the outer surface of the collar (5) being polymer coated.
5. A package as defined in any of the preceding claims, **characterised** in that the lid (6) has been formed of a polymer-coated board (15) with at least the inner surface of the lid being polymer-coated.
6. A package as defined in claims 4 and 5, **characterised** in that the polymer coating of the board (15) comprises an inner oxygen barrier layer (16) and an outer heat-sealing layer (17).
7. A package as defined in any of the preceding claims, **characterised** in that the lid (6) comprises at its centre a recess (14) defined by a conical surface (13) and nested with the cup (1) so that the friction and/or compression between the cup mantle (3) and the opposite conical surfaces of the lid recess retain the lid in position in the reclosed package.
8. A package as defined in any of the preceding claims, **characterised** in that a recess (14) has been formed at the centre of the lid (6) for receiving the bottom of the package on top as the packages are piled.

Docket No.: 0696-0250PUS1

**10/591170** (PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Jari RÄSÄNEN et al.

International Application No.: PCT/FI2005/000162

Application No.: NEW

Art Unit: N/A

Filed: August 30, 2006

Examiner: Not Yet Assigned

For: CUP PACKAGE MADE OF A FIBRE-BASED  
MATERIAL

**PRELIMINARY AMENDMENT**

MS PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**INTRODUCTORY COMMENTS**

The following preliminary amendments and remarks are respectfully submitted in connection with the above-identified application.

This amendment includes:

**Amendments to the Claims** are reflected in the listing of claims which begins on page 2 of this paper.

**Remarks/Arguments** begin on page 5 of this paper.

**AMENDMENTS TO THE CLAIMS**

1. (previously presented) A cup package made of a fibre-based material, comprising a cup (1) containing a packaged product (2) and a lid (6) closing the mouth of the cup, both the cup and the lid being **characterised** in that the cup (1) comprises a mantle (3) bent downward at the mouth (4) of the cup to form a collar (5) diverging from the mantle, and in that the lid (6) has a downwardly oriented rim (8), at which the lid is fixed to the collar by heat sealing.
2. (Previously presented) A package as defined in claim 1, **characterised** in that the mantle (3) of the cup (1) is enlarged conically upwardly.
3. (Original) A package as defined in claim 1 or 2, **characterised** in that the cup collar (5) and the lid rim (8) are enlarged conically downwardly.
4. (Currently amended) A package as defined in ~~any of the preceding claims~~ claim 1, **characterised** in that the cup (1) is made from polymer-coated board (15) with at least the inner surface of the cup mantle (3) and the outer surface of the collar (5) being polymer coated.
5. (Currently amended) A package as defined in ~~any of the preceding claims~~ claim 1, **characterised** in that the lid (6) has been formed of a polymer-coated board (15) with at least the inner surface of the lid being polymer-coated.



6. (Currently amended) A package as defined in ~~claims 4 and 5~~ claim 4, **characterised** in that the polymer coating of the board (15) comprises an inner oxygen barrier layer (16) and an outer heat-sealing layer (17).

7. (Currently amended) A package as defined in ~~any of the preceding claims~~ claim 1, **characterised** in that the lid (6) comprises at its centre a recess (14) defined by a conical surface (13) and nested with the cup (1) so that the friction and/or compression between the cup mantle (3) and the opposite conical surfaces of the lid recess retain the lid in position in the reclosed package.

8. (Currently amended) A package as defined in ~~any of the preceding claims~~ claim 1, **characterised** in that a recess (14) has been formed at the centre of the lid (6) for receiving the bottom of the package on top as the packages are piled.

9. (Currently amended) A package as defined in ~~any of the preceding claims~~ claim 1, **characterised** in that an annular tear strip (11, 19) surrounding the lid is provided in the area of the rim (8) of the lid (6) for opening the package.

10. (Original) A package as defined in claim 9, **characterised** in that the tear strip is an annular stripe (11) defined by two aligned lines of perforations, the stripe being detached when torn.

11. (Original) A package as defined in claim 9, **characterised** in that the tear strip is an annular stripe (11') defined between the perforation line (10) and the lid rim, the lid (6) being peelably sealed in the collar (5) of the cup in the area of the stripe and detaching when torn.

12. (Original) A package as defined in claim 10 or 11, **characterised** in that the perforations in the line (10) of perforations penetrate through the board layer (15) of the lid (6), while leaving the subjacent polymer coating (16, 17) intact.

13. (Currently amended) A package as defined in ~~any of the preceding claims~~ claim 1, **characterised** in that the package is a portion package for a foodstuff, such as a drink, a dessert or sweets.

**REMARKS**

The Claims have been amended to remove improper multiple dependencies. Claims 1-8 are pending in this application.

**Conclusion**

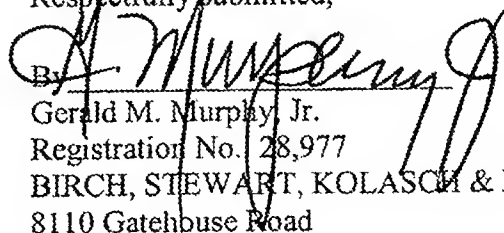
Entry of the above amendments is earnestly solicited. An early and favorable first action on the merits is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gerald M. Murphy, Jr. (Reg. No. 28,977 ) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: August 30, 2006

Respectfully submitted,

  
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